

COPY

PATENT  
Box CPA

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Patent Application of Richard A. Fishel et al. : Group Art Unit: 1655  
: :  
: :  
Appln. No.: 09/143,571 : Examiner:  
: Stephanie Zitomer, Ph.D.  
Filed: August 28, 1998 :  
: :  
For: COMPOSITIONS, KITS, AND METHODS : Attorney Docket  
FOR EFFECTING ADENINE : No. 9855-6U1  
NUCLEOTIDE MODULATION OF : (209855.0047; OTT-3026-1)  
DNA MISMATCH RECOGNITION :  
PROTEINS :

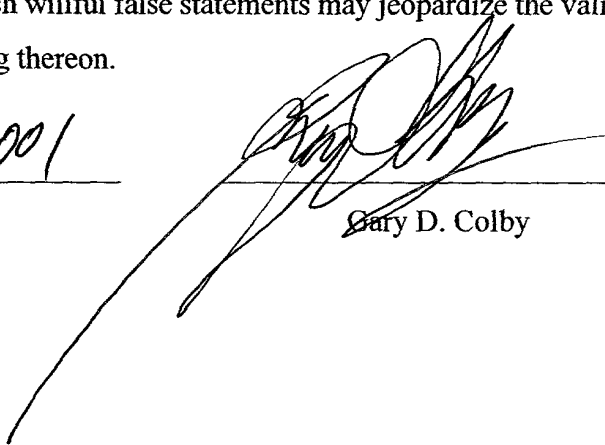
DECLARATION OF GARY D. COLBY PURSUANT TO 37 C.F.R. § 1.132

I hereby declare as follows:

1. I am the same Gary D. Colby who is registered to practice before the U.S. Patent and Trademark Office (Registration Number 40,961).
2. On June 14, 2000, I telephoned the offices of the publisher of the journal entitled "Proceedings of the National Academy of the Sciences of the United States of America" in order to ascertain the date on which the reference designated Acharya et al., 1996, Proc. Natl. Acad. Sci. USA 93:13629-13634 (hereinafter "the Acharya reference") was mailed to the public.
3. During that telephone call, I spoke with a person who identified herself as Marily Mason and who indicated that she had access to the mailing dates of issues of the journal referenced above in 1996.
4. Ms. Mason indicated that the issue of the journal in which the Acharya reference appeared was put into the U.S. Postal Service mail on November 26, 1996.
5. I therefore conclude that the Acharya reference was mailed on November 26, 1996.
6. It is my understanding that the U.S. Postal Service delivers mail not earlier than the day following the date of deposit of the mail.
7. I therefore conclude that the issue of the journal in which the Acharya reference appeared could not have been made available to the public earlier than November 27, 1996.

6. I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: 20 April 2001

  
\_\_\_\_\_  
Gary D. Colby

702233 60642660

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**DECLARATION AND POWER OF ATTORNEY**  
(Original Application)

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

**COMPOSITIONS, KITS, AND METHODS FOR EFFECTING ADENINE  
NUCLEOTIDE MODULATION OF DNA MISMATCH RECOGNITION PROTEINS**

the specification of which is attached hereto and/or was filed on August 28, 1998 as Application No. 09/143,571.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to herein.

I acknowledge the duty to disclose information which is material to patentability in accordance with Title 37, Code of Federal Regulations, Section 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, Section 119(a)-(d), of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

**FOREIGN PRIORITY APPLICATION(S)**

**Priority Claimed**

☐ Yes ☐ No

\_\_\_\_\_  
(Number)                      (Country)                      (Day/month/year filed)

☐ Yes ☐ No

\_\_\_\_\_  
(Number)                      (Country)                      (Day/month/year filed)

I hereby claim the benefit under Title 35, United States Code §119(e) of any United States provisional patent application(s) listed below and have also identified below any United States provisional patent application(s) having a filing date before that of the application on which priority is claimed:

**PROVISIONAL PRIORITY PATENT APPLICATION(S)**

**Priority Claimed**

\_\_\_\_\_  
60/093,935                      July 23, 1998  
(Application No.)                      (Filing Date)

☒ Yes ☐ No

\_\_\_\_\_  
60/066,977                      November 28, 1997  
(Application No.)                      (Filing Date)

☒ Yes ☐ No

\_\_\_\_\_  
60/057,136                      August 28, 1997  
(Application No.)                      (Filing Date)

☒ Yes ☐ No

And I hereby appoint the registered attorneys and agents associated with **Panitch Schwarze Jacobs & Nadel, P.C., Customer No. 000570**, as my attorneys or agents with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith.

Address all correspondence to **Customer No. 000570, namely, PANITCH SCHWARZE JACOBS & NADEL, P.C.**, One Commerce Square, 2005 Market Street, 22nd Floor, Philadelphia, Pennsylvania 19103-7086. Please direct all communications and telephone calls to **Gary D. Colby, Ph.D., J.D.** at 215-965-1285.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole

or first inventor Richard A. Fishel

Inventor's Signature



Date

11/9/98

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Citizenship

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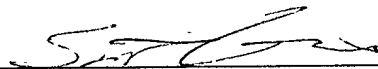
575 Sprague Road

Penn Valley, PA 19072

Full name of second joint

inventor, if any Scott Gradia

Inventor's Signature



Date

11/9/98

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inventor, if any Samir Acharya

Inventor's Signature

Samir Acharya

Date

Nov. 9, 1998

Residence

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Citizenship

India

Post Office Address

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Philadelphia, PA 19107

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# SEQUENCE LISTING

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GRADIA, Scott  
ACHARYA, Samir

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NUCLEOTIDE MODULATION OF DNA MISMATCH RECOGNITION  
PROTEINS

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